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Federal Communications Commission
Office of secretary

February 26, 2003

By Hand Delivery

Marlene H. Dortch
Secretary
Federal Communications Commission
236 Massachusetts Avenue, N.E.
Suite 110
Washington, D.C. 20002
Attn: Video Division

Re: Amendment of Section 73.622(b), DTV Table of Allotments
Station KVLY-DT, Fargo, North Dakota
Facility ID No. 61961

Dear Ms. Dortch:

Transmitted herewith on behalf of North Dakota Television License Sub, L.L.C., licensee of Station KVLY-DT, Fargo, North Dakota, are an original and four copies of a Petition for Rulemaking seeking to amend Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations, by substituting DTV Channel 44 for DTV Channel 58, which has been assigned to KVLY-DT.

Should any questions arise concerning this matter, please communicate directly with the undersigned.

Very truly yours.

DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP
Attorneys for North Dakota Television
License Sub, L.L.C.

By: _____
Andrew S. Kersting

Enclosure
cc: Certificate of Service (w/ encl.) (by hand & first-class mail)

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Federal Communications Commission
Office of Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Aniendmcnt of Section 73.622(b),	)	MM Docket No. __
Table of Allotments,	)	RM-_____
Digital Television Broadcast Stations,	)	
(Fargo, North Dakota)	)	

To: Chief, Video Division

PETITION FOR RULEMAKING

North Dakota Television License Sub, LLC ("NDTV"), licensee of Station KVLY-TV, NTSC Channel 11, Fargo, North Dakota, by counsel and pursuant to Section 1.401 of the Commission's rules. 47 C.F.R. §1.401, hereby requests that the Commission institute a rulcmaking proceeding to amend Section 73.622(b) of the rules, the DTV Table of Allotments, to substitute DTV Channel 44 for the existing DTV Channel 58 allotment which has been assigned to KVLY-TV. In support of this petition, the following is stated:

As shown in the attached engineering statement by Craig S. Turner ("Engineering Statement"), DTV Channel 44 can be substituted for KVLY-DT's existing Channel 58 DTV allotnicnt in compliance with Section 73.623 of the Commission's rules. The reference coordinates for the proposed allotment are North Latitude: 47" 20' 32"; West Longitude: 97" 17' 20". which is KVLY-TV's licensed transmitter site. The proposed Channel 44 DTV facility would operatc with an antenna height of 542.6 meters above average terrain and an effective radiated power of 1,000 kW in thc main lobe. **As** demonstrated in the attached Engineering Statement, the proposed allotment of DTV Channel 44 would enable KVLY-DT to provide a 48 dBu contour to the entire community of Fargo, and therefore would comply with the principal

community coverage requirement contained in Section 73.625(a) of the rules. Moreover, the proposed allotment of DTV Channel 44 to Fargo would not cause interference to any DTV, NTSC, or Class A station and therefore would comply with the 2 percent interference criterion contained in Section 73.623(c)(2) of the rules. Engineering Statement at 2 and Exhibit F.

Furthermore, although KVLY-DT is located within 400 kilometers of the U.S.-Canadian border, the proposed allotment of DTV Channel 44 to Fargo complies with the U.S./Canadian Letter of Understanding because the proposed allotment of DTV Channel 44 at Fargo will not cause any interference to co-channel analog station CICOTV, Kenora, Ontario. *See* Engineering Statement at Exhibits G-2, G-4.

The substitution of DTV Channel 44 for KVLY-TV's assigned Channel 58 DTV allotment would provide substantial public interest benefits. The proposed allotment would reduce KVLY-TV's digital transition costs by enabling KVLY-DT to operate on an in-core DTV channel. NDTV would thereby avoid the unnecessary expense of having to construct a DTV facility to operate on an out-of-core channel until the end of the transition period, and then seek to move to an in-core channel and construct a second DTV facility on a newly assigned in-core channel after the end of the transition period.

In addition, the proposed substitution of DTV Channel 44 for the existing Channel 58 allotment would enable NDTV to avoid the substantial expense of purchasing and installing a second transmission line and reinforcing KVLY-TV's existing tower structure. Due to the high UFH frequency of KVLY-DT's currently assigned DTV channel, NDTV would need to purchase an additional transmission line for KVLY-DT and install it on KVLY-TV's existing lower, which is estimated to cost approximately $215,000. In order *to* accommodate the second transmission line, NDTV also would need to reinforce KVLY-TV's existing tower structure, which is estimated to cost approximately an additional $400,000. However, if the proposed

allotment is adopted and KVLY-DT is assigned DTV Channel 44, KVLY-DT would he able to utilize the existing transmission line that is currently installed on the KVLY-TV tower. See Engineering Statcmcnt at 1. Thus, the proposed substitution of DTV Channel 44 for DTV Channel 58 would save NDTV approximately $615,000 in transition costs. This substantial reduction in KVLY-DT's transition costs is significant because KVLY-TV is located in the Fargo-Valley City DMA, which is ranked as the118th television market. As a result, KVLY-TV does not generate as much revenue as stations in larger markets and the digital transition already is imposing a severe economic strain on NDTV.

NDTV's proposal to substitute an in-core channel for KVLY-DT's existing out-of-core DTV allotment is consistent with rulemaking proposals which previously have been approved by the Commission. *See, e.g., Fort Myers, Florida*, **DA** 02-3154 (Video Div., released November 20, 2002) (substituting DTV Channel 9 for assigned DTV Channel 53); *Chattanooga, Tennessee*, 16 FCC Rcd 3121 (Video Serv. Div. 2001) (substituting DTV Channel 13 for assigned DTV Channel 55). The Commission also has previously recognized that cost savings which help facilitate a licensee's ability to make the transition to digital television are a separate public intcrest factor warranting a grant of a DTV allotment proposal. *See Lawton, Oklahoma*, 17 FCC Rcd 22671 (Video Div. 2002); *Reliance, South Dakota*, 17 FCC Rcd 16556 (Video Div. 2002).

Upon the allotment and assignment of DTV Channel 44 to KVLY-DT, NDTV will tile an application for the modified DTV facility and, upon grant of a construction permit to operate on DTV Channel 44, NDTV will complete construction of KVLY-DT's digital facilities and commence digital operations in a timely manner.

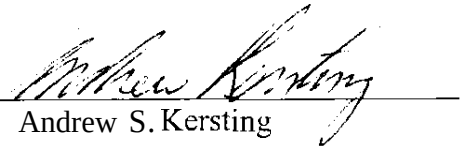
WHEREFORE, in light of the foregoing, North Dakota Television License Sub, LLC respectfully requests that the Commission expeditiously issue a Notice of Proposed Rule Making incorporating the proposal set forth in this petition, and, after receiving comments in response to the Notice, issue a Report and Order adopting the proposed amendment to Section 73.622(b) of the Commission's rules, the DTV Table of Allotments, and substitute DTV Channel 44 for the existing DTV Channel 58 allotment, which is currently assigned to KVLY-DT, Fargo, North Dakota

Respectfully submitted,

Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, N.W.
Washington, DC 20037-1526
(202) 785-9700

Attorneys for

NORTH DAKOTA TELEVISION LICENSE SUB. LLC

By: 
Andrew S. Kersting

February 26, 2003

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EXHIBIT A

ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of North Dakota Television License Sub, L.L.C. ("NDTV") licensee of Television Station KVLY. Fargo, North Dakota in support of its Petition for Rulemaking to substitute DTV channel 44 for DTV channel 58 in Fargo.

It has been determined that a significant financial burden will be placed on "NDTV" to utilize channel 58 for their DTV channel. These issues are related to the inability to utilize the existing transmission line that is currently installed on the KVLY-TV tower and the fact that adding new transmission line to the structure will require the structure to be reinforced at a tremendous expense to "NDTV". Utilization of DTV channel 44 would eliminate these issues in that the transmission line length required for channel 11 (NTSC channel) and 44 (proposed DTV channel) are the same physical length. Such is not the case for channel 11 and channel 58. Therefore, by utilizing DTV channel 44, the NTSC transmission for KVLY-TV and the DTV transmission for KVLY-DT can be combined on the same transmission line at significant cost savings to "NDTV". A detailed channel search reveals that DTV channel 44 can be used in Fargo from the present KVLY-TV site with specific, maximized operating parameters.

The proposed site is located at 47'20' 32" North and 097"17' 20" West. For the purpose of our interference studies, we assumed that a Dielectric omni-directional

antenna with a 0.5' beam tilt would be side-mounted on the present KVLY-TV tower as shown in Exhibit B. The proposed effective antenna height is 845.78 meters AMSL, and the main lobe ERP is 1000 KW.
Proposed operating parameters are listed in Exhibit C and Exhibit D provides the antenna radiation pattern data for the proposed antenna.

The predicted service contours are plotted in Exhibit **E-1.** *As* shown, the entire community of Fargo is contained within the proposed **48** dbp contour, as required in §73.625(a) of the FCC rules. Exhibit ***E-2*** shows the predicted 41dbp service contour of KVLY-DT replicates the 56 dbp contour of KVLY-TV. Exhibit **F** is an interference study, which concludes that the proposed facility meets the requirements of §73.623(c)(2) of the FCC rules with respect to both NTSC and DTV facilities. Interference studies were also conducted for the stations that were considered to receive interference from the proposed facility.

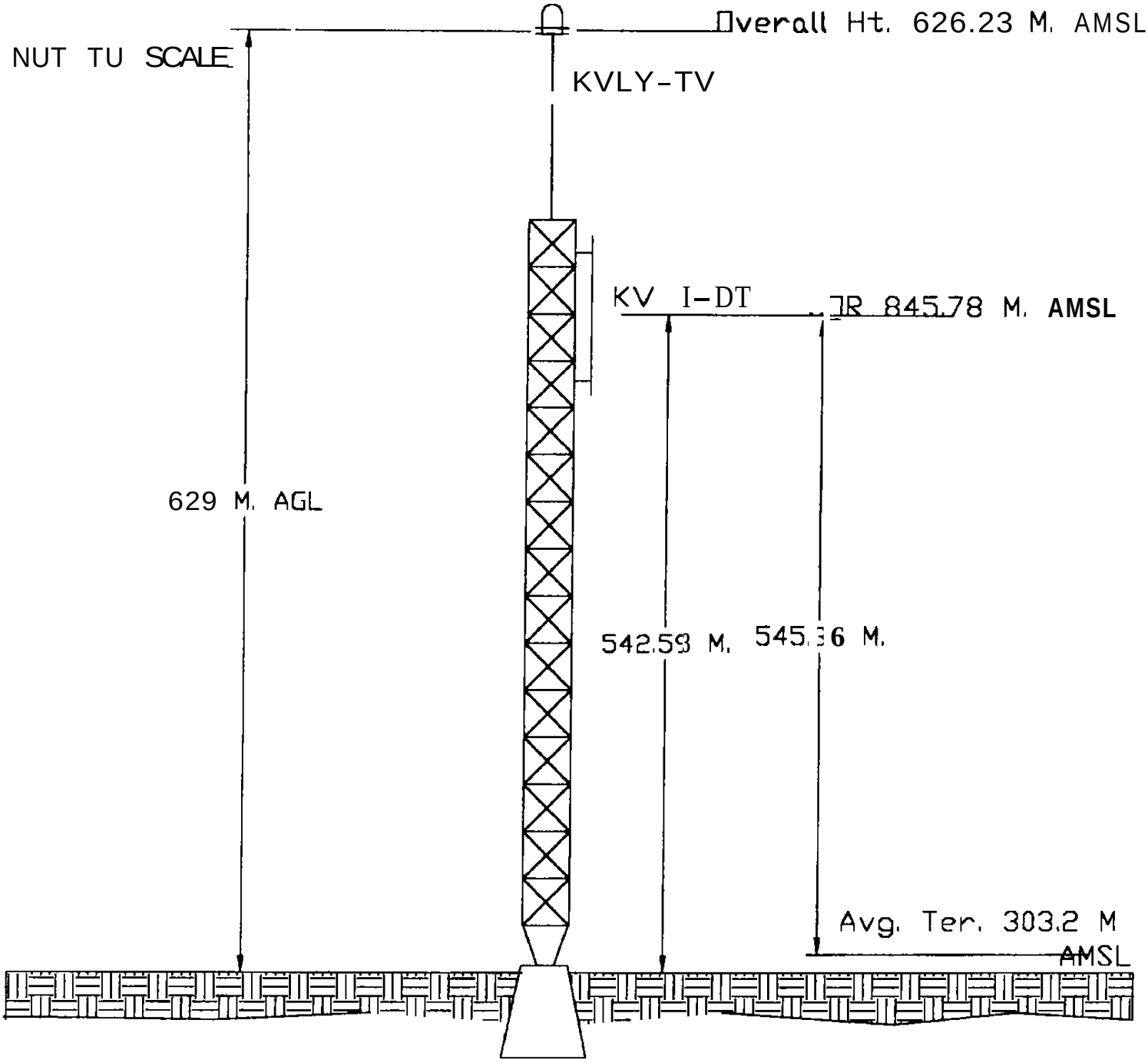
It is thus respectfully requested that the FCC substitute DTV channel 44 for DTV channel ***58*** in Fargo. North Dakota, in its Digital television Table of Allotments in §73.622(b) of the FCC rules as follows:

Community	Present Allotments	Proposed Allotments
Fargo, North Dakota	**19, 21, *23, 58**	**19, 21, *23, 44**

I declare under penalty of perjury that the foregoing statements and the attached exhibits. which were prepared by me or under my immediate supervision, are true and correct to the best of my knowledge and belief.

Craig S. Turner

February 13, 2003



Site Coordinates:
47–20–32 N.
97–17–20 W,

EXHIBIT B

ELEVATION OF ANTENNA STRUCTURE

PROPOSED KVLY-DT

CHANNEL 44 - FARGO, NORTH DAKOTA

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EXHIBIT C

PROPOSED OPERATING PARAMETERS

PROPOSED KVLY-DT ALLOTMENT
CHANNEL 44 – FARGO, NORTH DAKOTA

Channel Number	44
Zone	2
Site Coordinates:	47-20-32 N
	97-17-20 W
Antenna Structure Registration Number	1046244
Tower Site Elevation AMSL	300.42 meters
Overall Tower Height AGL	
Overall Tower Height AMSL	
Antenna Radiation Center AGL	545.37 meters
Antenna Radiation Center AMSL	845.80 meters
Average Terrain Elevation	303.19 meters
Antenna Radiation Center HAAT	542.60 meters
Antenna Make and Model:	Dielectric TFU-28DSC-R 03
Orientation:	Omnidirectional
Electrical Beam Tilt:	0.50"
Polarization:	Horizontal
Effective Radiated Power (Main Lobe)	1000 Kw

Exhibit No.
D-1

Dielectric

Date	12 Feb 2003		
Call Letters	KVLY-DT	Channel	44
Location	Fargo, ND		
Customer			
Antenna Type	TFU-28DSC-R 0 3		

ELEVATION PATTERN

RMS Gain at Main Lobe	24.0 (13.80 dB)	Beam Tilt	0.50 Degrees
RMS Gain at Horizontal	20.6 (13.14 dB)	Frequency	653.00 MHz
Calculated / Measured	Calculated	Drawing #	28Q240050-90

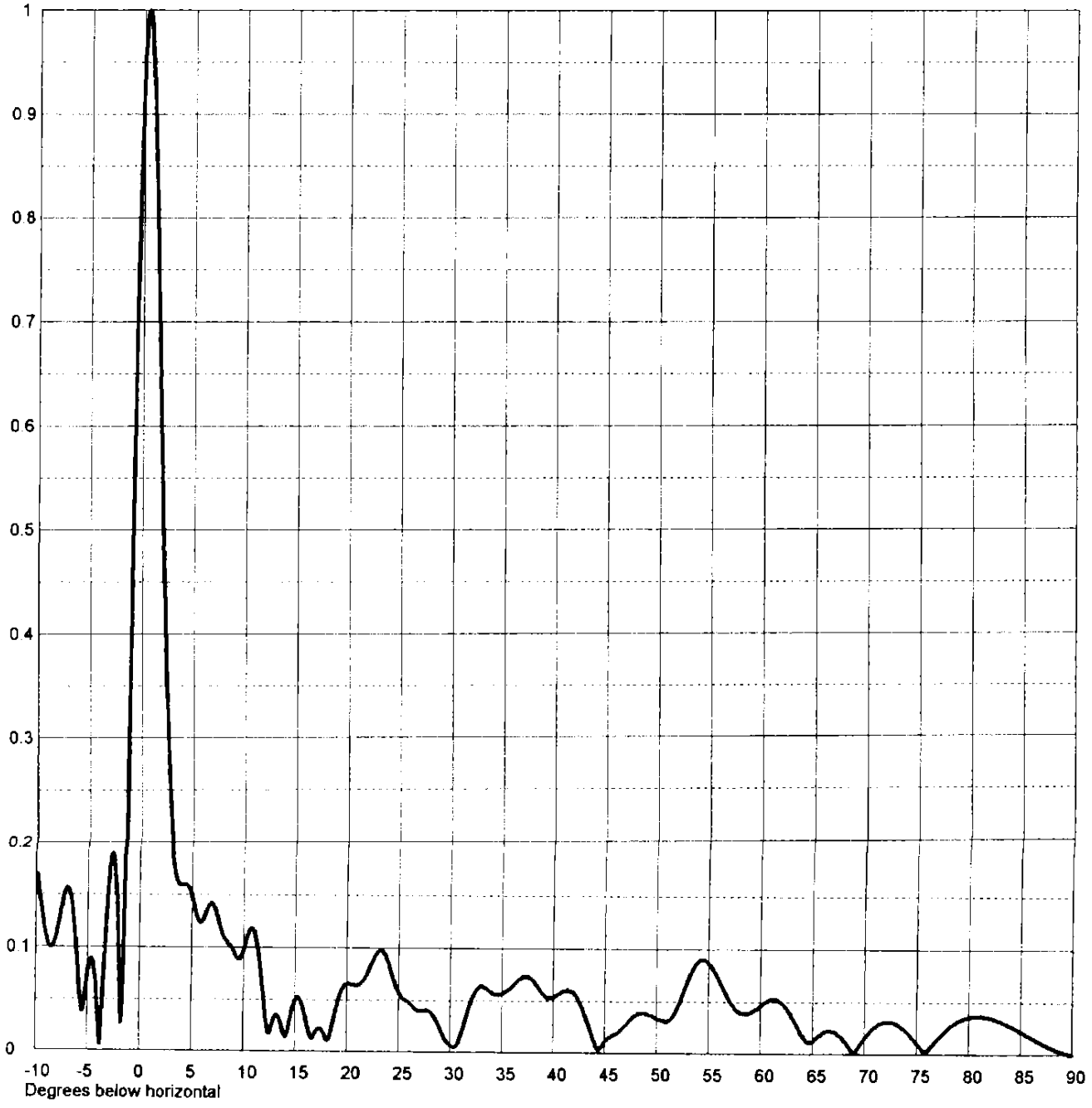


Exhibit No.
D-2

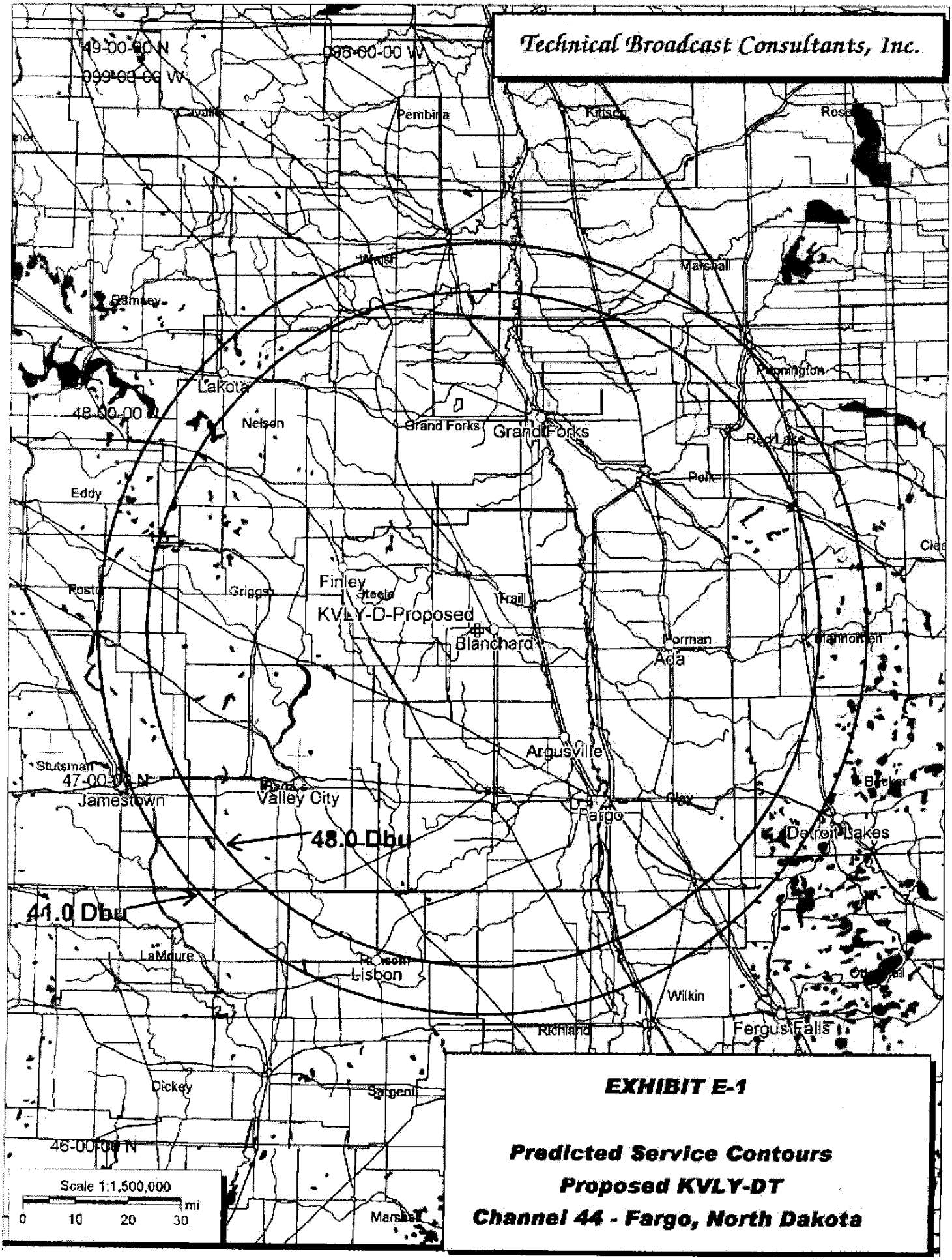
Dielectric

Date **12 Feb 2003**
Call Letters **KVLY-DT** Channel **44**
Location **Fargo, ND**
Customer
Antenna Type **TFU-28DSC-R O3**

TABULATION OF ELEVATION PATTERN

Elevation Pattern Drawing # **28Q240050-90**

Angle	Field	Angle	Field	Angle	Field	Angle	Field	Angle	Field	Angle	Field
-10.0	0.177	2.4	0.355	10.6	0.117	30.5	0.005	51.0	0.031	71.5	0.030
-9.5	0.140	2.6	0.293	10.8	0.118	31.0	0.016	51.5	0.035	72.0	0.031
-9.0	0.110	2.8	0.245	11.0	0.116	31.5	0.032	52.0	0.044	72.5	0.031
-8.5	0.100	3.0	0.210	11.5	0.090	32.0	0.049	52.5	0.057	73.0	0.029
-8.0	0.114	3.2	0.187	12.0	0.047	32.5	0.060	53.0	0.070	73.5	0.026
-7.5	0.140	3.4	0.172	12.5	0.017	33.0	0.064	53.5	0.081	74.0	0.022
-7.0	0.157	3.6	0.164	13.0	0.033	33.5	0.062	54.0	0.088	74.5	0.016
-6.5	0.140	3.8	0.160	13.5	0.032	34.0	0.058	54.5	0.090	75.0	0.010
-6.0	0.086	4.0	0.159	14.0	0.015	34.5	0.056	55.0	0.087	75.5	0.004
-5.5	0.038	4.2	0.160	14.5	0.029	35.0	0.057	55.5	0.080	76.0	0.003
-5.0	0.076	4.4	0.160	15.0	0.049	35.5	0.060	56.0	0.071	76.5	0.009
-4.5	0.086	4.6	0.159	15.5	0.050	36.0	0.064	56.5	0.061	77.0	0.015
-4.0	0.032	4.8	0.156	16.0	0.034	36.5	0.069	57.0	0.051	77.5	0.020
-3.5	0.067	5.0	0.150	16.5	0.014	37.0	0.073	57.5	0.044	78.0	0.025
-3.0	0.161	5.2	0.142	17.0	0.019	37.5	0.073	58.0	0.040	78.5	0.029
-2.8	0.182	5.4	0.134	17.5	0.022	38.0	0.070	58.5	0.039	79.0	0.032
-2.6	0.189	5.6	0.127	18.0	0.012	38.5	0.063	59.0	0.040	79.5	0.034
-2.4	0.177	5.8	0.124	18.5	0.020	39.0	0.057	59.5	0.043	80.0	0.036
-2.2	0.146	6.0	0.125	19.0	0.043	39.5	0.053	60.0	0.046	80.5	0.037
-2.0	0.094	6.2	0.129	19.5	0.059	40.0	0.054	60.5	0.050	81.0	0.037
-1.8	0.027	6.4	0.135	20.0	0.065	40.5	0.057	61.0	0.052	81.5	0.036
-1.6	0.073	6.6	0.139	20.5	0.065	41.0	0.060	61.5	0.052	82.0	0.035
-1.4	0.178	6.8	0.142	21.0	0.064	41.5	0.060	62.0	0.049	82.5	0.034
-1.2	0.294	7.0	0.142	21.5	0.068	42.0	0.058	62.5	0.044	83.0	0.032
-1.0	0.417	7.2	0.138	22.0	0.076	42.5	0.050	63.0	0.036	83.5	0.030
-0.8	0.541	7.4	0.132	22.5	0.088	43.0	0.039	63.5	0.027	84.0	0.027
-0.6	0.658	7.6	0.125	23.0	0.096	43.5	0.025	64.0	0.018	84.5	0.025
-0.4	0.765	7.8	0.118	23.5	0.097	44.0	0.011	64.5	0.011	85.0	0.022
-0.2	0.856	8.0	0.112	24.0	0.087	44.5	0.004	65.0	0.012	85.5	0.019
0.0	0.927	8.2	0.108	24.5	0.071	45.0	0.011	65.5	0.017	86.0	0.016
0.2	0.975	8.4	0.106	25.0	0.058	45.5	0.015	66.0	0.021	86.5	0.013
0.4	0.998	8.6	0.103	25.5	0.051	46.0	0.018	66.5	0.022	87.0	0.011
0.6	0.996	8.8	0.100	26.0	0.048	46.5	0.022	67.0	0.022	87.5	0.008
0.8	0.970	9.0	0.097	26.5	0.043	47.0	0.027	67.5	0.018	88.0	0.006
1.0	0.923	9.2	0.093	27.0	0.040	47.5	0.033	68.0	0.013	88.5	0.004
1.2	0.858	9.4	0.090	27.5	0.040	48.0	0.037	68.5	0.007	89.0	0.002
1.4	0.779	9.6	0.089	28.0	0.040	48.5	0.039	69.0	0.001	89.5	0.001
1.6	0.692	9.8	0.091	28.5	0.034	49.0	0.038	69.5	0.008	90.0	0.000
1.8	0.601	10.0	0.097	29.0	0.023	49.5	0.037	70.0	0.015		
2.0	0.512	10.2	0.104	29.5	0.013	50.0	0.034	70.5	0.022		
2.2	0.429	10.4	0.111	30.0	0.007	50.5	0.032	71.0	0.026		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Grand Forks
Grand Forks
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Polk
Griggs
Steele
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Traill
Norman
Ada
Stutsman
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Jamestown
Valley City
Cass
Argusville
Fargo
Clay
Detroit Lakes
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Richland
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EXHIBIT E-1
Predicted Service Contours
Proposed KVLY-DT
Channel 44 - Fargo, North Dakota

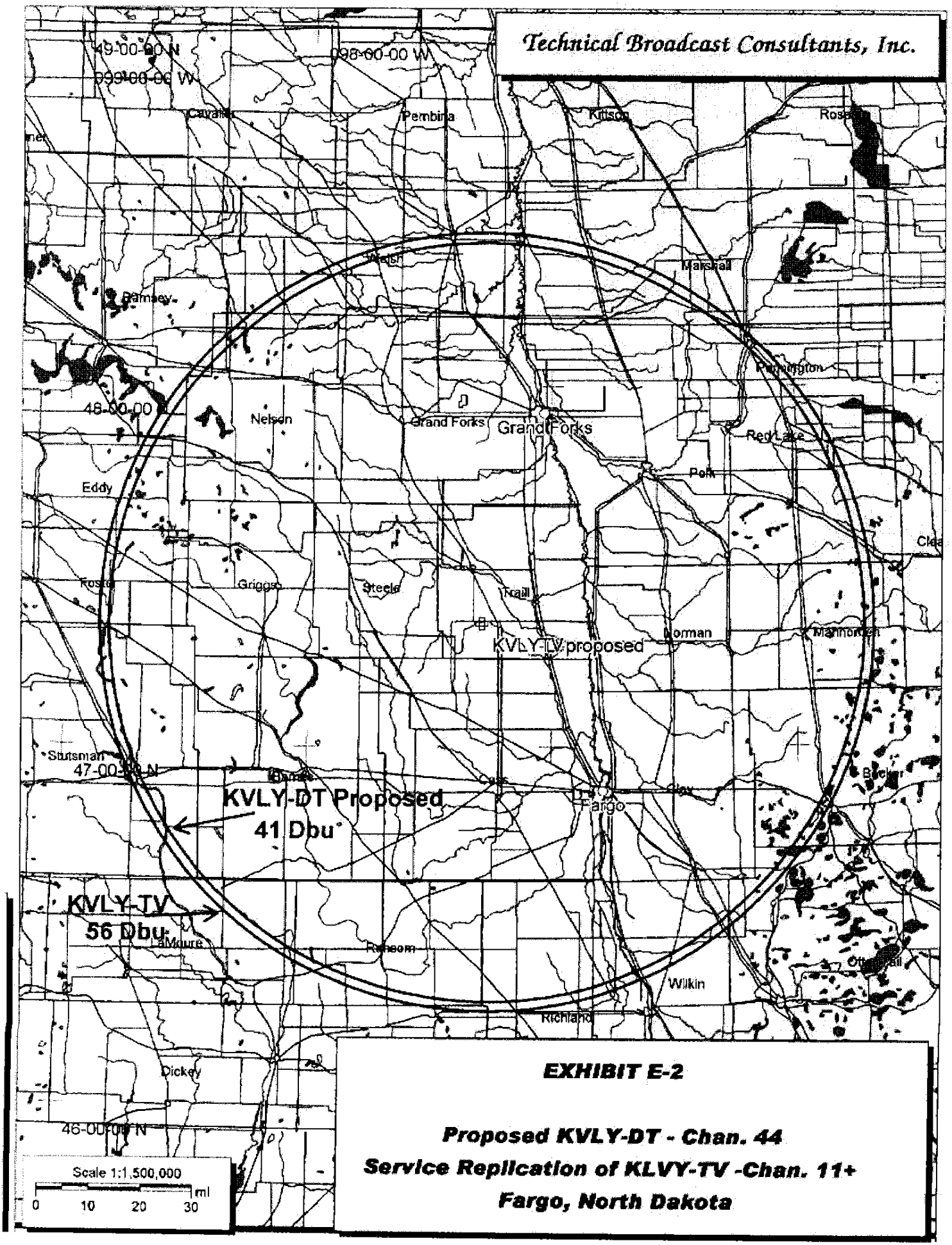

EXHIBIT E-2

Proposed KVLY-DT - Chan. 44

Service Replication of KLVY-TV -Chan. 11+

Fargo, North Dakota

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EXHIBIT F

ALLOCATION AND INTERFERENCE STUDY
PROPOSED KVLY-DT ALLOTMENT
CHANNEL **44** – Fargo, North Dakota

An interference study was conducted using the operating parameters of the facility described herein to determine if it meets the FCC's de **minimis** interference requirements of Section 73.623(c)(2) of the Commission's Rules. Specifically, the proposed facility may not cause more than two percent interference to the service population of a DTV or NTSC facility, nor can its interference contribution result in an excess of 10 percent total DTV interference to the service population of any DTV **or** NTSC facility

The service area **of** a DTV station **is** defined as that which is calculated using the Longley-Rice propagation model to receive a signal of 41 dbμ or greater and lies within the predicted **41** dbμ contour of the station using the (50,90) curves, the station's effective radiated power, and **2-10** mile terrain averages along each radial.

In evaluating the interference effect of this proposal, **we** have relied upon the V-Soft Communications 'Probe' computer program, which has been found generally to mimic the FCC's program. Our study utilizes a cell size of 1 kilometer, a spacing increment of 0.1 kilometer along each azimuth, and the 2000 U.S. Census. Changes in interference caused by the proposed allotment facility to other pertinent stations are tabulated in Exhibit G.

As indicated, the proposed KVLY-DT facility would not contribute more than two percent DTV interference to the service population of any affected NTSC or DTV station. In addition, this proposal does not result in any NTSC or DTV station receiving more than ten percent total DTV interference to viewers living within the station's authorized or proposed service area.

Therefore, this proposal meets the FCC's de minimis interference standards as defined in Section 73.623(c)(3) of the Commission's Rules.

EXHIBIT G-1

Incoming Interference Study

KVLY-D-proposed (44) Fargo, ND
TV Incoming Interference Study
Signal Resolution: 1 km
Consider NTSC Taboo: Yes
KWX error points are considered to
be interference free coverage.
# of radials computed for contours: 72
Contours calculated using 8 radial HAAT.
LR Profile Spacing Increment: 0.1 km
Interference considered within the
reference station's noise limited contour.
Threshold for reception: 41.521

Study Date: 2/11/2003
TV Database Date: 02-08-03

Population Database: 2000 US Census (SF1)

Percentages calculated using a baseline population of 339,346.

Stations which cause interference to proposed facility:

Call Letters	H Units	Population	%	Area (sq. km)
KSTC-D.C (44)	32	20	0.006	2.52

Masking Summary:

	Total Interference		Unique Interference	
Call Letters	Population	%	Population	%
KSTC-D.C (44)	20	0.006	20	0.006

Stations considered which do not cause interference:

KSTC-D.S (44)
KSTC-D.S (44)
CICOTV (44Z)
KVBMTV-D (44)

Call Letters	City	State	Dist	Bear
KSTC-D.C (44)	Minneapolis	MN	408.2	126.8
KSTC-D.S (44)	Minneapolis-st. Pau	MN	408.2	126.8
KSTC-D.S (44)	Minneapolis-st. Pau	MN	408.2	126.8

CICOTV (44Z)	Kenora	ON	320.9	34.2
KVBMTV-D (44)	MINNEAPOLIS	MN	408.3	126.8

Totals for KVLY-D-proposed (44)

Calculation Area Population:	339,376	(42364.6 sq. km)
Not Affected by Terrain Loss:	339,346	(42305.6 sq. km)
Total NTSC Interference:	0	(0.0 sq. km)
DTV Only Interference:	20	(2.5 sq. km)
Total DTV Interference:	20	(2.5 sq. km)
Interfered Population:	20	(2.5 sq. km)
Interference Free:	339,326	(42303.1 sq. km)
Percent Interference:	0.01	
Terrain Blocked Population:	30	(58.9 sq. km)
Contour Area Population:	339,425	

EXHIBIT G-2

Outgoing Interference Study

KVLY-D-proposed (44) Fargo, ND
TV Outgoing Interference Study
Signal Resolution: 1 km
Consider NTSC Taboo: Yes
KWX error points are considered *to*
be interference free coverage.
# of radials computed for contours: 72
Contours calculated using 8 radial HAAT.
LR Profile Spacing Increment: 0.1 km
Masked interference points are being counted
as interference free.

Study Date: 2/13/2003
TV Database Date: 02-08-03

Population Database: 2000 US Census (SF1)

Stations Considered:

Call Letters	City	State	Dist	Bear
CICOTV (442)	Kenora	ON	320.9	34.2

Stations which receive interference:

Call Letters	H Units	Population	Area (sq. km)
CICOTV (442)	0	0	3.99

Totals for KVLY-D-proposed (44)
Total population to which interference is caused: 0
Total number of housing units to which interference is caused: 0

EXHIBIT *G-3*

Incoming Interference Study

CICOTV (44Z) Kenora, ON
TV Incoming Interference Study
Signal Resolution: 1 km
Consider NTSC Taboo: Yes
KWX error points are considered to
be interference free coverage.
# of radials computed for contours: 72
Contours calculated using 8 radial HAAT.
LR Profile Spacing Increment: 0.1 km
Interference considered within the
reference station's noise limited contour
Threshold for reception: 56

Study Date: 2/13/2003
TV Database Date: 02-08-03

Population Database: 2000 US Census (SF1)

Percentages calculated using a baseline population of 149.

Stations which cause interference:

Call Letters	H Units	Population	%	Area (sq. km)
KVLY-D-proposed (44)	0	0	0.000	0.80

Masking Summary:

	Total Interference		Unique Interference	
Call Letters	Population	%	Population	%
KVLY-D-proposed (44)	0	0.000	0	0.000

Stations considered which do not cause interference:

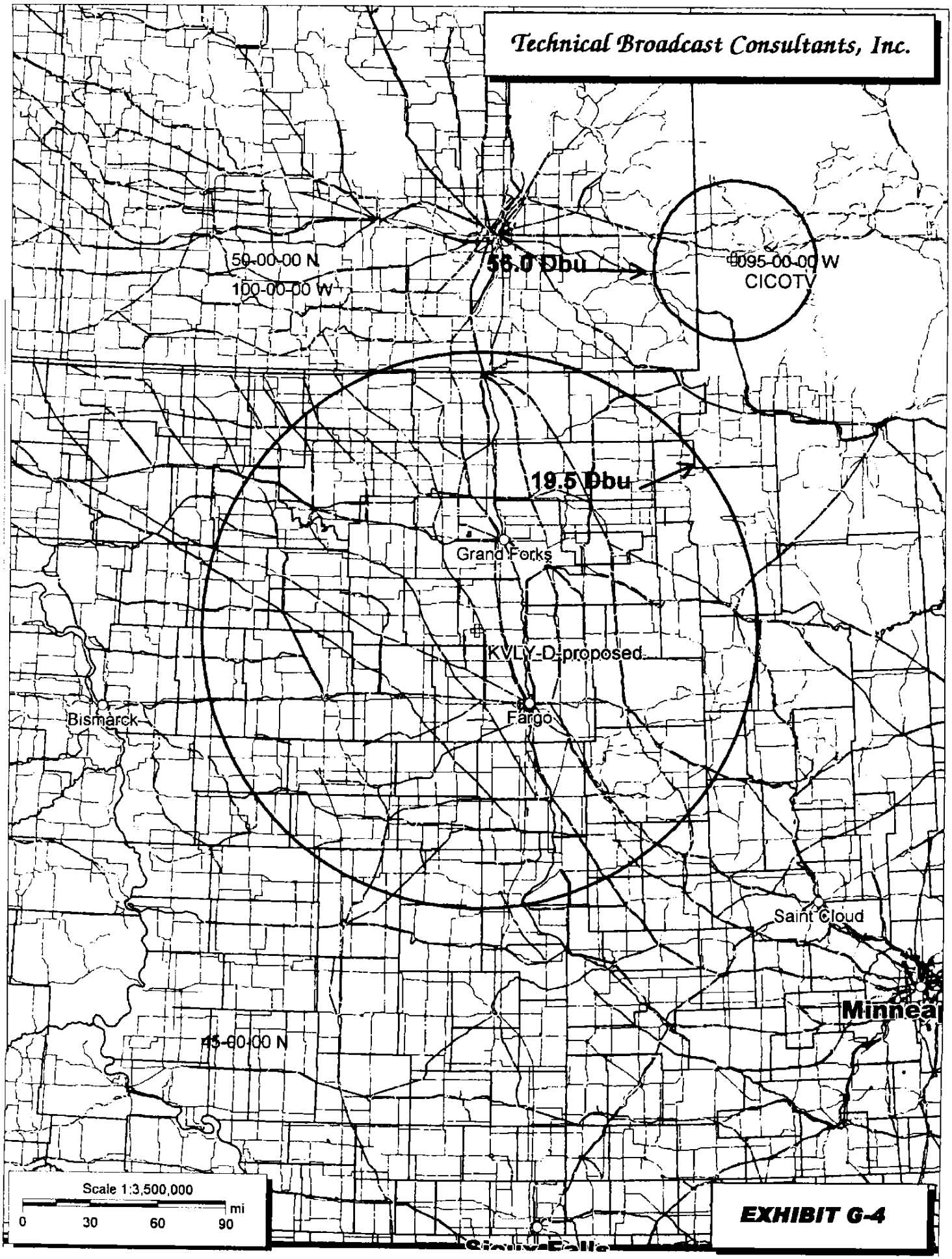
KVLY-D-proposed (44

Call Letters	City	State	Dist	Bear
KVLY-D-proposed (44)	Fargo	ND	320.9	216.1

Totals for CICOTV (44Z)

Calculation Area Population:	149	(6425.6 sq. km)
Not Affected by Terrain Loss:	149	(6064.5 sq. km)
Total NTSC Interference:	0	(0.8 sq. km)
DTV Only Interference:	0	(-0.0 sq. km)
Total DTV Interference:	0	(0.0 sq. km)
Interfered Population:	0	(0.8 sq. km)
Interference Free:	149	(063.7 sq. km)
Percent Interference:	0.00	
Terrain Blocked Population:	0	(361.2 sq. km)
Contour Area Population:	147	

	Housing Units	Population	% of County
Minnesota			
Lake of the Woods County			
County Pop	3,238	4,522	
CICOTV (44Z)	258	149	
Ix Free	258	149	100.00


Technical Broadcast Consultants, Inc.
50-00-00 N
100-00-00 W
56.0 Dbu
095-00-00 W
CICOTV
19.5 Dbu
Grand Forks
KVLY-D proposed
Fargo
Bismarck
Saint Cloud
Minnea
45-00-00 N
Scale 1:3,500,000
mi
0
30
60
90
EXHIBIT G-4

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of February, 2003, a copy of the foregoing "Petition for Rulemaking" was hand delivered to the following:

Barbara Kreisman, Chief
Video Division
Media Bureau
Federal Communications Commission
The Portals 11, Room 2-A666
445 Twelfth Street, S.W.
Washington, DC 20554

Nazifa Naim
Video Division
Media Bureau
Federal Communications Commission
The Portals II, Room 2-C834
445 Twelfth Street, S.W.
Washington, DC 20554

Andrew Kersting